

## **TITLE 2. OFFICE OF THE STATE CONTROLLER**

NOTICE IS HEREBY GIVEN that the Office of the State Controller proposes to add Article 4.7, sections 1172.90 and 1172.92 to Title 2, Division 2, Chapter 2, Subchapter 8 of the California Code of Regulations.

### **AUTHORITY AND REFERENCE**

The authority for these proposed regulations is found in Code of Civil Procedure section 1580 which authorizes the Controller to make and enforce rules and regulations relating to the administration and enforcement of the California Unclaimed Property Law, Code of Civil Procedure section 1500 *et seq.* The reference for these proposed regulations is found in the Code of Civil Procedure section 1577.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Office of the State Controller is charged with the responsibility of making and enforcing rules and regulations relating to the administration and enforcement of California's Unclaimed Property Laws. Pursuant to the Code of Civil Procedure section 1577, persons or entities that fail to report or to pay or deliver unclaimed property to the State Controller's Office within the time prescribed are liable for interest at 12 percent per annum on the value of the property involved. Assembly Bill 378 (Chapter 304, section 5, of the Statutes of 2003) amended that section to allowing those holders of unclaimed property to be exempt from liability for 12 percent interest if the failure was due to reasonable cause.

The proposed regulations define the term "reasonable cause" thereby clarifying under what circumstances or conditions the Office of the State Controller may abate interest under Code of Civil Procedure section 1577, and also inform holders of the unclaimed property of their burden of proving reasonable cause and how to set forth any claim of reasonable cause.

### **COSTS TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The State Controller's Office has determined that the proposed action: (1) does not impose a mandate on school districts or local agencies, (2) does not involve costs or savings to any state agency, (3) does not involve a cost or savings imposed on any local agencies or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (4) does not involve costs or savings in federal funding to the State, and (5) does not impose other nondiscretionary costs or savings on local agencies.

### **IMPACT ON HOUSING COSTS**

The matter proposed herein will have no significant effect on housing costs.

### **ADVERSE ECONOMIC IMPACT STATEMENT**

The State Controller's Office has made an initial determination that the proposed regulation will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## ASSESSMENT

The State Controller's Office has made an assessment that the proposed regulation WILL NOT: (1) create or eliminate jobs within the State of California, (2) create new businesses, or eliminate existing businesses in the State of California, AND (3) effect the expansion of businesses currently doing business in the State of California.

## COST IMPACT STATEMENT

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## SMALL BUSINESS STATEMENT

The proposed regulations do not create any new requirements, but are intended to clarify an existing voluntary procedure, provided for by law, and will not, therefore, affect small businesses.

## ALTERNATIVES CONSIDERED

The State Controller's Office must determine that no reasonable alternative is considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## CONTACT PERSON

Inquiries, comments, and requests concerning the proposed administrative action may be addressed to Ronald Placet, Senior Staff Counsel, Office of the State Controller, 300 Capitol Mall, Suite 1850, Sacramento, CA 95814. (Telephone: (916) 445-7217; mailing address: Office of the State Controller, Attention: Ronald V. Placet, Legal Division, P.O. Box 942850, Sacramento, CA 94250). If unable to reach the above-listed contact person, the backup contact person is; Shawn Silva, Staff Counsel, Office of the State Controller, 300 Capitol Mall, Suite 1850, Sacramento, CA 95814. (Telephone: (916) 324-8534; Mailing address: Office of the State Controller, Attention: Shawn Silva, Legal Division, P.O. Box 942850, Sacramento, CA 94250; E-mail: [ssilva@sco.ca.gov](mailto:ssilva@sco.ca.gov)).

## WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person above. The comment period expires on May 31, 2004, at 5:00 p.m. All comments must be made prior to the expiration of the written comment period.

## COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The State Controller's Office will accept written comments transmitted by e-mail, to: [rplacet@sco.ca.gov](mailto:rplacet@sco.ca.gov). The State Controller's Office will also accept written comments transmitted by facsimile provided that they are directed to the attention of Ronald V. Placet and sent to the following facsimile number: (916) 322-1220. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

### **PUBLIC HEARING NOT SCHEDULED**

A public hearing regarding this proposal has not been scheduled. Any interested party, or his or her duly authorized representative, may request a public hearing no later than fifteen (15) days prior to the close of the written comment period. All requests for a public hearing must be submitted in writing to the contact person as specified above.

### **TEXT OF THE PROPOSED REGULATION**

The full text of the proposed regulation, the Initial Statement of Reasons, and any information relied upon, are available at the State Controller's Office. This information is available upon request.

Should the proposed regulation go through substantial changes, a full copy of the modified text will be made available to the public, upon request, at least 15 days before the State Controller's Office adopts the resulting regulation. Any changes to the text will be clearly indicated. The State Controller's Office will respond to written comments regarding any changes in the Final Statement of Reasons.

When available, a copy of the Final Statement of Reasons can be obtained upon request from the State Controller's Office.

### **WEBSITE POSTING**

Documents concerning this proceeding are available on the State Controller's Website at [www.sco.ca.gov](http://www.sco.ca.gov); click 'Proposed Unclaimed Property Regulations' on the opening screen. For those without web access, documents are available from the contact person listed above.